

## **REMARKS**

This Response is submitted in reply to the Office Action dated January 7, 2009 and in accordance with the April 14, 2009 interview. Dependent claim 57 has been added. Applicant has amended claims 1, 3, 4, 7, 9, 10, 12, 15, 18, 20, 22, 23, 26, 28, 29, 31, 34, 37, 38, 41, 47, 50, 55 and 56. Claims 1, 18, 20, 37, 38 and 47 are in independent form. A Petition for a One Month Extension of Time to reply to the Office Action is submitted with this Response. A Supplemental Information Disclosure Statement is submitted with this Response. Please charge Deposit Account No. 02-1818 for all payments due in connection with this Response.

Applicant refers to previously presented claims 1-59 in the Office Action dated September 29, 2008 as "Prior Claims".

The Office Action rejected:

- (a) Prior Claims 1-6, 7-9, 11, 18-28, 30, 3-40, 47-49, 53, 54, 55 and 56 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,833,537 to Barrie ("Barrie");
- (b) Prior Claims 16, 17, 35, 36, 42, 43, 51 and 52 under 35 U.S.C. § 103(a) as being unpatentable over Barrie;
- (c) Prior Claims 10, 12, 13, 14, 29, 31, 32 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Barrie in view of U.S. Patent No. 6,558,253 to DeSimone ("DeSimone");
- (d) Prior Claims 15, 41 and 50 under 35 U.S.C. § 103(a) as being unpatentable over Barrie in view of U.S. Patent No. 6,632,141 to Webb ("Webb").

As stated above, the Office Action rejected Prior Claims 1-6, 7-9, 11, 18-28, 30, 3-40, 47-49, 53, 54, 55 and 56 under 35 U.S.C. 102(b) as being anticipated by Barrie. As best understood by the Applicant, such rejection of Prior Claims 3-40 is a typographical error and should have been stated as a rejection of Prior Claims 37-40. Also, in the rejection of Prior Claims 35, 43 and 52, the Office Action stated:

Because Barrie discloses that there are a plurality of modifiers wherein each modifier has a stated lifespan for a subsequent activations, the added limitation stating that a plurality of said modifiers are each associated with a different pluralities of subsequent activations of the reels, does not incorporate added structural functionality into the invention, and it would have been obvious to one skilled in the art simpler matte [sic]

Because of the Office Action's incomplete sentence, it is difficult for Applicant to fully understand the basis of such rejection. Accordingly, Applicant requests the withdrawal of the rejection or clarification of such rejection in a Non-final Office Action.

Nonetheless, Applicant has responded as best understood and has amended independent claims 1, 18, 20, 37, 38 and 47 to advance the prosecution of this application.

As discussed in the interview, amended claim 1 recites, among other elements, "in response to the display of the modifier activator symbol, display a plurality of different modifiers . . . after the plurality of different modifiers are displayed, receive an input from a player, the input corresponding to a selection of one of the displayed plurality of modifiers."

Amended claim 18 recites, among other elements, "in response to the indication of the modifier activator symbol, display a plurality of modifiers. . . after the display of the plurality of modifiers, receive an input from a player, the input corresponding to a selection of one of the displayed plurality of modifiers. . . apply the selected modifier to modify, for each of the reactivated reels, at least one of: (i) the at least one award, if any, based on at least one symbol indicated on the reels; and (ii) the winning condition of the primary wagering game. . . ."

Amended claim 20 recites, among other elements, "in response to the display of the at least one modifier activator, display a plurality of modifiers. . . after the display of the plurality of modifiers, receive an input from a player, the input corresponding to a selection of one of the displayed plurality of modifiers . . . ."

Amended claim 37 recites, among other elements, "in response to the generated symbols including the at least one modifier symbol, activate a modifier generator, the modifier generator displaying a plurality of modifiers. . . after the display of the plurality of modifiers, receive an input from the player, the input corresponding to a selection of

one of the displayed plurality of modifiers . . . modify, for the second play , based on the selected modifier, at least one of: (i) the award, if any; and (ii) the winning condition of the primary game. . . .”

Amended claim 38 recites, among other elements, “in response to the display of the modifier activator symbol, displaying a plurality of different modifiers. . . after the display of the plurality of modifiers, receiving an input from the player, the input corresponding to a selection of one of the displayed plurality of modifiers. . . .”

Amended claim 47 recites, among other elements, “in response to the display of the at least one modifier activator symbol, displaying a plurality of different modifiers. . . after the display of the plurality of modifiers, receiving an input from the player, the input corresponding to a selection of one of the displayed plurality of modifiers. . . .”

Support for these amendments can be found, for example, in at least paragraphs [0122] to [0125] and in Figs. 4A, 4B and 4C of the published application.

New dependent claim 57 recites, among other elements, “the instructions include a plurality of instructions executable to cause the at least one processor to, for at least one of the reactivated reels: (a) receive a second input, the second input corresponding to an activation of at least one payline; (b) for the at least one activated payline: (i) apply the selected modify to at least one function of at least one symbol indicated by the payline; and (ii) determine the additional award based on the modified function.”

Support for new dependent claim 57 can be found, for example, in at least paragraphs, [0103], [0104], [0125] and Figs. 4B and 4C.

All of the rejections rely on Barrie. Barrie discloses a gaming apparatus and method with a persistence effect. Redefined events in Barrie result in positioning symbols on a playing field which persist in their location and effect through two or more sequential rounds of a game. Barrie does not anticipate or render obvious displaying a plurality of modifiers in response to the display of the at least modifier activator symbol and receiving an input from a player after the plurality of modifiers are displayed, the input corresponding to a selection of one of the displayed plurality of modifiers.

DeSimone discloses a slot machine with an award multiplier display. In one embodiment of DeSimone, the slot machine incorporates a variable bonus multiplier

display consisting of a segmented circle with lights around its perimeter. DeSimone does not disclose displaying a plurality of modifiers in response to the display of the at least modifier activator symbol and receiving an input from a player after the plurality of modifiers are displayed, the input corresponding to a selection of one of the displayed plurality of modifiers.

Webb discloses a gaming device having an offer and acceptance selection bonus scheme with a terminator and an anti-terminator. In one embodiment of Webb, the game provides a plurality of selections on the screen or display which the player may choose from. As discussed in the interview, the modifiers in Webb are concealed before the selection of the modifiers. Upon the selection of the modifier, the gaming device of Webb reveals the modifier on a display. Webb does not initially display a modifier, and then later enable the player to select that modifier while being displayed.

At least for the foregoing reasons, Applicant submits that the references relied upon in the Office Action do not separately or collectively anticipate or render obvious the foregoing elements of such claims. Applicant submits that claims 1, 18, 20, 37, 38 and 47, together with their dependent claims, are in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance, and allowance is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,  
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Dated: May 7, 2009